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U.S. Application No. 09/868,176
Attorney Docket No. 72167.000310Remarks

The Office Action mailed October 4, 2006 has been reviewed and its contents carefully considered. Claims 1-40 are pending in the present application. By this amendment, claims 26, 28 and 34-40 are amended. No new matter has been added by this Amendment. In particular, the claims are amended to remove the numerical identifiers, as such numerical identifiers are associated with only certain embodiments of the invention.

A. The 35 U.S.C. 103 Rejection

In the Office Action, claims 1-40 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Tarter et al. - U.S. Pat. No. 5,550,734 (hereinafter "Tarter"). Applicant respectfully traverses the rejection and requests withdrawal of the same.

The Office Action sets forth the rejection of claim 1 on page 2. The Office Action asserts that as per claim 1, Tarter discloses a method of processing payment transactions by a financial institution having a plurality of branches, each payment transaction having a destination bank and each payment transaction being capable of being forwarded through a plurality of clearing systems. The Office Action asserts the method of Tarter includes the steps of transmitting the payment transactions from the plurality of branches to a central location within the financial institution; determining, for each payment transaction, an appropriate clearing system which to forward the payment transaction; and forwarding each payment transaction to the determined appropriate clearing system. The Office Action refers to column 10 lines 11-67 and column 11-12 lines 1-65 and column 18 lines 58-67 and column 19-35 lines 1-67.

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In the Abstract, Tarter describes that the Tarter invention is a computerized method and system for financing health care service providers, especially pharmacies, by evaluating and purchasing their accounts receivables, scoring the creditworthiness of payors and obligors such as insurance companies, self-insured employers, health maintenance organizations, preferred provider organizations, government agencies, and other entities sponsoring groups and individuals receiving health care benefits, collecting on receivables, securitizing receivables, managing funds, and processing and reconciling claims and payments. Tarter appears to refer to the described system as the "CHARMS" system.

Applicant has reviewed the Office Action comments and the teachings of Tarter vis-à-vis claim 1. For the reasons set forth below, Applicant respectfully submits that Tarter fails to teach the claimed invention.

In the Office Action, the Examiner cites to extensive teachings of Tarter, i.e., the Office Action cites to essentially the entirety of columns 11, 12 and 19-35. The Examiner is respectfully requested to more specifically identify the particular sections of Tarter being relied upon in the Office Action. Such would greatly assist Applicant.

Claim 1 recites:

A method of processing payment transactions by a financial institution having a plurality of branches, each payment transaction having a destination bank and each payment transaction being capable of being forwarded through a plurality of clearing systems, the method comprising the steps of:

transmitting the payment transactions from the plurality of branches to a central location within the financial institution;

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determining, for each payment transaction, an appropriate clearing system which to forward the payment transaction; and
forwarding each payment transaction to the determined appropriate clearing system.

In particular, Tarter fails to teach the feature of claim 1 including "determining, for each payment transaction, an appropriate clearing system which to forward the payment transaction". By such language, claim 1 clearly sets forth a decision process, i.e., to determine which is the appropriate clearing system. This decision process is performed for each payment transaction. Applicant has reviewed Tarter for such teachings, and in particular has reviewed the various teachings cited in the rejection of claim 1. Applicant submits that Tarter fails to teach such decision process.

For example, in column 18, lines 58-67 (cited in the Office Action), Tarter describes aspects of the Tarter invention dealing with an insurance claim. That is, Tarter teaches that if the processor approves an insurance claim, CHARMS accesses a database retrievably stored by CHARMS containing records which indicate the credit status of the relevant payors and obligors. CHARMS creates and regularly updates this database by analyzing the creditworthiness of payors and obligors on the basis of compiled data such as past and present payment practices and standard credit agency ratings. CHARMS decides which insurance claims, or accounts receivables, to be purchased by the System Operator from participating pharmacies on the basis of, inter alia, the credit status of the relevant payors and obligors. CHARMS calculates a discount rate, in one preferred embodiment of the Tarter invention, based on the provider's outstanding accounts receivable portfolio, or, in another embodiment, by approximating the provider's best negotiated credit card

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discount rate, or both. CHARMS credits the service provider's bank account by utilizing, in one embodiment of the described invention, a new interface through existing ACH interchanges. CHARMS arranges for a credit to the service provider's account within a day or two of purchase of the receivable, in contrast to the 18 to 45 days before pharmacies receive payment under the existing systems. In effect, therefore, the described invention of Tarter finances pharmacies' receivables.

In such disclosure of Tarter, Applicant notes that Tarter calculates a discount rate. Further, Tarter describes that existing ACH channels are utilized. However, neither of such disclosure teaches the decisioning process as set forth in claim 1, i.e., the feature of "determining, for each payment transaction, an appropriate clearing system which to forward the payment transaction". There is simply no such decisioning in Tarter so as to reach such claimed features.

Applicant notes that Tarter describes further aspects of "ACH" processing, in particular, in column 42, lines 1-29, under the sub-heading ACH and Wire transfers. Tarter teaches after the daily summarization process is completed, CHARMS provides for the transfer to each provider of the ACH amount indicated in the provider profile record. In one embodiment of Tarter, this transfer is done through existing ACH channels. In another embodiment, CHARMS makes this transfer through existing wire transfer channels for all or selected service providers.

Tarter further teaches to effect the ACH transfer, CHARMS uses the provider profile database, including banking information, ACH alert limits and wire transfer information, the daily summary file, and negative balance information. As a result of this process, CHARMS produces an ACH disbursement tape, an ACH alert report, an ACH

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hold report, a wire transfer to transmit report, and a daily summary of disbursements by provider. ACH transfers are made to each provider, regional headquarters, or chain headquarters, as indicated in the provider profile record. The daily ACH process is run every day, even when banks are closed. Separate transfers facilitate reconciliation by each provider to his bank statement. ACH transmissions are sent to the System Operator's bank on a daily basis or in the case of weekends and holidays, transmitted at the first available banking day. However, such teachings of Tarter fail to set forth the decisioning of claim 1, i.e., in particular the feature of "determining, for each payment transaction, an appropriate clearing system which to forward the payment transaction".

Applicant also notes Tarter at column 40, line 29. Tarter teaches after making the decision to buy a claim and determining the applicable discount rate, CHARMS arranges for the purchase of the claim by, in one embodiment of the Tarter invention, making the ACH transfer determinations and then transmitting the transaction directly to the ACH. This action results in a debit to CHARMS's SPV bank account and a credit to the pharmacy's bank account. CHARMS uses the dollar amounts of the ACH transfers as well as ongoing cash usage information to project future financial requirements. Thus, while Tarter talks about "ACH transfer determinations", such fails to teach the particulars of claim 1 and the decisioning process. Thereafter, in column 41, lines 14-37, Tarter teaches summing up total dollars for claims purchased (including reversals), credits, adjustments, processor fees, and discount fee, and that the net result of this summation is the potential ACH amount. Thereafter, Tarter further describes features relating to the ACH amount, e.g., Tarter talks to "the potential ACH amount becomes the ACH amount".

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However, Applicant submits that such features of Tarter, as described in columns 40 and 41 (as cited above) fails to teach the particulars of claim 1. Tarter fails to teach: transmitting the payment transactions from the plurality of branches to a central location within the financial institution; determining, for each payment transaction, an appropriate clearing system which to forward the payment transaction; and forwarding each payment transaction to the determined appropriate clearing system. Tarter fails to teach the decisioning to determine the appropriate clearing system vis-à-vis each payment transaction, as recited in claim 1.

Applicant respectfully submits that the applied art fails to teach or suggest the features of claim 1 for at least the reasons set forth above. Further, independent claims 10, 25, and 26 are allowable at least for some of the reasons similar to those discussed above with respect to claim 1.

For example, claim 25 recites the features of:

for each payment transaction, determine an appropriate clearing system which to forward the payment transaction by:

- (a) identifying, for each payment transaction, candidate clearing systems which could be used to forward the payment transaction to the destination bank,
- (b) verifying that a first candidate clearing system is available for use, and
- (c) verifying that a processing of the payment transaction does not exceed a predetermined value limit; and forwarding each payment transaction to the determined appropriate clearing system.

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In particular, Tarter fails to teach such processing for *each* payment transaction, including identifying the candidate clearing *systems*, i.e., identifying more than one candidate system for each payment transaction.

The various dependent claims recite patentable subject matter at least for their various dependencies on the independent claims, as well as for the additional subject matter recited in such dependent claims. The Examiner is requested to further consider the various dependent claims.

For example, dependent claim 11 recites sequentially repeating steps (of claim 10) for other candidate clearing systems until one of the other candidate clearing systems satisfies the verification steps; and forwarding the payment transaction to the one other candidate clearing system. Tarter fails to teach such sequential processing. The Examiner is requested to clarify which portion of Tarter allegedly teaches such claimed features.

Also, claim 13 recites features relating to "prioritizing" the candidate clearing systems. Tarter appears fully deficient in teaching such claimed features. Clarification is requested as to where Tarter allegedly teaches such claimed features.

Withdrawal of the 35 U.S.C. §102 rejection based on the applied art is respectfully requested.

B. Conclusion

For at least the reasons outlined above, Applicant respectfully asserts that the application is in condition for allowance. Favorable reconsideration and allowance of the claims are respectfully solicited.

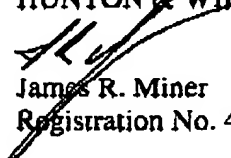
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For any fees due in connection with filing this Response the Commissioner is hereby authorized to charge the undersigned's Deposit Account No. 50-0206.

Should the Examiner believe anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Dated: January 4, 2007

Respectfully submitted,
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